

Remarks

The above Amendments and these Remarks are in reply to the Office Action mailed September 17, 2004.

I. Double Patenting Rejections

Claims 28-46 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-11 of U.S. Patent No: 6,187,906 or alternatively, U.S. Patent Application No: 09/866,536 (now U.S. Patent No: 6,812,848).

Claims 28-32 and 34-46 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No: 6,682,753.

Claims 41-44 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-37 of U.S. Patent No: 6,780,848.

Applicants herewith provide a Terminal Disclaimer over U.S. Patent Nos: 6,187,906, 6,812,848, 6,682,753 and 6,780,848, a Certificate of Ownership for each of the listed patents and the instant application, and a copy of an Assignment document in support of the Certificates of Ownership. Applicants therefore request the Examiner to remove the double patenting rejections over these patents.

II. Rejections Under 35 U.S.C. § 102(e)

Claims 41-44 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. patent No: 6,780,848 (the "848" patent). Applicant has canceled claims 41-44 and now believes that all of the claim currently pending are allowable.

In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if I can assist in any way in expediting issuance of a patent.

Enclosed is a Terminal Disclaimer and the required fee, Certificates of Ownership of the instant application and the Patents relevant to the Terminal Disclaimer, a copy of an Assignment of patents and patent applications to Neuren Pharmaceuticals Ltd. and a Petition for Extension of Time (1 month).

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: January 11, 2005

By: 

D. Benjamin Borson, Ph.D.

Reg. No. 42,349

FLIESLER MEYER LLP
Four Embarcadero Center, Fourth Floor
San Francisco, California 94111-4156
Telephone: (415) 362-3800